

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Ray Hansen,
Appellant,

v.

Polk County Board of Review,
Appellee.

ORDER

Docket No. 13-77-0261
Parcel No. 110/01552-001-000

On February 4, 2014, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Ray Hansen was self-represented. Assistant Polk County Attorney David Hibbard represented the Board of Review at hearing. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Ray Hansen, owner of property located at 1411 Henderson Avenue, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing his property. According to the property record card, the subject property is a one-story, bungalow built in 1925 with 1184 square feet of total living area and a 291 square-foot, unfinished attic. The record notes an effective year built of 1943. The dwelling has an 832 square-foot, unfinished basement, a 572 square-foot detached garage built in 1986, a deck and an open porch. It is listed as average quality grade (4-05) and in normal condition. The site is 0.299-acres.

The real estate was classified as residential on the initial assessment of January 1, 2013, and valued at \$98,300, representing \$16,400 in land value and \$81,900 in dwelling value.

Hansen protested to the Board of Review on the ground that the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). His petition to the Board of Review sought an assessment of \$62,000. The Board of Review granted the petition, in part, and reduced the assessment to \$86,000, allocated \$16,400 to land value and \$69,600 to dwelling value.

Hansen then filed his appeal with this Board and claimed the same ground. He again asserts the actual value of the property is \$62,000, allocated \$16,400 to land value and \$45,600 to dwelling value.

Hansen offered a listing and two sales of properties he considered comparable to his property to support his claim.

Address	Effective Year Built	Grade	TSFLA	Garage SF	Date of Sale	Sale Price	AV	Sale Condition
Subject	1925	4-05	1184	572	10/19/12	\$ 60,000	\$ 86,000	Foreclosure
1715 York	1930	4+00	1190	200	2/21/13	\$ 74,000	\$ 87,000	Foreclosure
1429 Arthur	1927	4-05	1210	280	3/11/13	\$ 46,000	\$ 93,100	Short Sale/Cash
1726 York	1914	4+00	1169	576	Listed at \$64,900		\$ 91,000	Short Sale

All sales, including the subject, have abnormal sale conditions that may distort the sale price. For this reason, these sale prices, without adjustments to remove the distorting effects of the abnormal sale conditions, are not reflective of the properties' fair market values. Therefore, we give this evidence no consideration.

Hansen also submitted a letter written by Broker Associate Steve Roberts of Re/Max Real Estate Concepts in Des Moines. Roberts states he reviewed active and sold listings and, based on his comparison, believes the subject property's fair market value was \$62,000 as of April 2013. It appears Roberts relied on the previously described sales and listing and, for the reasons already discussed, we give Roberts' analysis no consideration.

Hansen testified regarding the assessments of other properties located on Henderson Avenue, which he stated are lower than the subject's. However, he did not provide any additional information

about these properties and we give this testimony no consideration. Hansen further testified he purchased the subject property for \$60,000 in October 2012 after it had been on the market for almost a year. He does not believe it can possibly be worth the assessed value of \$86,000.

Appraiser Catron of the Polk County Assessor's Office developed an appraiser analysis that identified five 2011-2012 sales of property considered comparable to Hansen's property. Based on his analysis, he recommended no change to Hansen's assessment. All sale transactions were considered normal. Most of the comparable properties are similar in construction quality grade and age.

Address	Year Built	Grade	TSFLA	Garage SF	Date of Sale	Sale Price	AV	SP \$SF
Subject	1925	4-05	1184	572	10/19/12	\$60,000	\$86,000	\$50.68
1526 Guthrie	1923	4-05	1068	none	9/19/12	\$78,500	\$97,700	\$73.50
1422 Henderson	1939	4+00	862	240	10/15/12	\$93,000	\$98,700	\$107.89
3221 E 13th	1914	4-05	1072	576	8/30/11	\$109,900	\$83,600	\$102.52
1424 Richmond	1923	5+05	792	576	4/1/11	\$57,500	\$62,900	\$72.60
1415 Arthur	1948	4-05	920	240	4/13/12	\$75,000	\$81,600	\$81.52

We note the comparable sale prices range from \$57,500 to \$109,900, or \$72.50 per-square-foot to \$107.89 per-square-foot. The adjusted sale prices range from \$87,091 to \$121,542, or \$81.55 to \$131.85 per-square-foot. The subject property sold as a foreclosure for \$50.68 per-square-foot, which is well below the lower end of the range of the normal arms' length sales and the adjusted sale prices. The subject is assessed at \$72.64 per-square-foot, which is the low end of the unadjusted sales range and below the adjusted sales range. Ultimately, the sales data supports Hansen's assessment.

Jim Willett, Deputy Polk County Assessor, testified on behalf of the Board of Review. Willett indicated the Board of Review sales were normal, arm's length transactions. He stated that all except Comp #3 are located in the same pocket area of Des Moines. In contrast, he reported the three sales identified by Hansen were abnormal and reflected distress value, not market value. In his opinion, the Board of Review comparable sales show the subject property is fairly assessed and assessed within the value range for the neighborhood. We agree.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* However, the "sales price of the subject property in a normal sales transaction . . . does not *conclusively* establish [market] value." *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 290 (Iowa 1996). Conversely, sale prices of properties in abnormal transactions not reflecting market value must not be taken into account, or must be adjusted to eliminate the effect of factors which distort market value, including . . . foreclosure or other forced sales. § 441.21(1)(b). If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

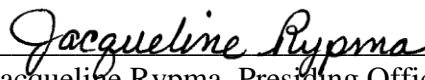
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

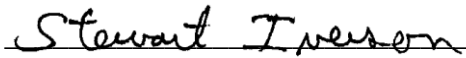
Foreclosures and lender sales are not considered normal transactions and require adjustments to be used as comparable sales. § 441.21(1)(b). The fact that Hansen purchased the property as a short sale makes the transaction abnormal and adjustments must be made to eliminating the distorting effect. However, Hansen's sale price was not adjusted to compensate for the abnormal sale condition. Similarly, the sales of Hansen's comparables are abnormal and are also not adjusted. In addition, even if Hansen's purchase had been a normal sales transaction, the subject's sales price would not *conclusively* establish its market value. *Riley*, 549 N.W.2d at 290.

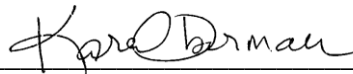
Meanwhile, the evidence presented by the Board of Review supports the subject's assessment. Viewing the evidence as a whole, we determine the preponderance of the evidence does not support Hansen's claim of over-assessment.

The Appeal Board orders the subject property's assessment of \$86,000, as determined by the Polk County Board of Review, as of January 1, 2013, is affirmed.

Dated this 14th day of February, 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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